

## NPDES Program

The NPDES Wastewater Program has responsibility for regulating wastewater discharges to surface waters. Primary program activities include: (1) issuing NPDES permits (new and renewals), (2) monitoring discharger compliance with permit requirements (review of discharger self-monitoring reports and compliance inspections), (3) taking enforcement action as appropriate (Notices of Violations, Mandatory Minimum Penalties, etc.), (4) investigating spills and illegal discharges and (5) handling petitions and litigation.

Region 5 has approximately 1/3 of the individual NPDES permits statewide, but does not share a commensurate proportion of the statewide program resources. This creates a perpetual shortfall in funding versus workload. In addition, during FY 2003-04 the NPDES program took a significant staffing cut when Federal funds were returned to US EPA. US EPA in turn used these funds to have their contractor (Tetrattech) assist Regional Boards with program activities. This resulted in several NPDES permits writers across all three offices being shifted from NPDES to other program work. This situation continues this FY. We expect that these funds will be returned to the State in the future, but not this FY. While the assistance from the contractor has been helpful and resulted in more program tasks being completed, it created a situation where the staff remaining in the program saw their caseloads increase and the work performed by the contractor needed varying degrees of staff oversight and review. The contractor has been involved in some aspects of the NPDES program for several years, but prior to last FY 03-04, this was limited to compliance and pretreatment inspections. In FY 03-04 the contractor began assisting us with drafting NPDES permits as well.

The Program workplan development process has become more complex with the involvement of the contractor over the last two years because they are now assisting in nearly all components of the program except enforcement. The approach for determining annual workplan commitments has become a process of identifying all program activities required by the Federal 106 agreement, determining what portion of those activities we can reasonably be expected to accomplish with our remaining staff resources and then assigning the rest to Tetrattech.

### Permitting:

For permit actions, the list of FY 04-05 activities included permits carried over from FY 03-04 plus those permits scheduled to expire during FY 04-05. The following table displays the combined Regional Board staff and the contractor's permitting commitments:

<b>FY 2004-05 Combined RB and Contractor Workplan</b>					
	<b>Permit Renewals</b>		<b>New Permits</b>	<b>General Permits</b>	
<b>Office</b>	<b>Majors RB/Cont.</b>	<b>Minors RB/Cont.</b>	<b>Minors RB/Cont.</b>	<b>RB/Cont.</b>	<b>Total RB/Cont.</b>
<b>Fresno</b>	2/3	3/20			5/23
<b>Redding</b>	5/0	15/12	2/0		22/12
<b>Sacramento</b>	5/3	7/11	2/3		14/17
<b>Total</b>	12/6	25/43	4/3	0/	31/42

These are the Region's permitting commitments for the fiscal year. These numbers do not include two master reclamation permits being prepared by the Sacramento office or several permits requiring staff work as a result of petitions or litigation. Although it may appear from the numbers that the contractor is handling more than 50% of our permit commitments, each permit the contractor works on also requires a significant amount of Region Board staff effort to complete the permit and take it to the Board for adoption.

The status of permitting accomplishments by office through the October 2004 Board Meeting is displayed in the following table:

<b>FY 2004-05 Permitting Accomplishments through October 2004 Board Meeting</b>			
<b>Office</b>	<b>Majors Renew/Rescind</b>	<b>Minors Renew/Rescind/New</b>	<b>Total Renew/Rescind/New</b>
<b>Fresno</b>	0/0	3*/0/0	3*/0/0
<b>Redding</b>	3/0	15/1/0	18/1/0
<b>Sacramento</b>	3/0	1/0/1	4/0/0
<b>Total</b>	6/0	19/1/1	24/1/0

\* Permit renewals processed by Tetrattech and the Sacramento Office

This summary of permitting accomplishments does not include “non-workplan” items such as permit revisions and amendments that must be addressed periodically. These permit activities can require substantial staff resources and represent an activity not adequately accounted for in the program workplan.

There are a considerable number of permits at various stages of completion in the “permitting pipeline” at this point in time. Permits “In Progress” are currently being worked on by Regional Board staff and/or the contractor. Other permits have been drafted and are undergoing internal review, or have been released for public comment and noticed for a Board hearing. At this time we expect to rescind six additional permits. Although not renewed, these will satisfy the permit renewal commitment for these facilities. Most of the permits started by the contractor last FY will be ready for Board action by the January Board meeting. The contractor will then begin work on the permits expiring this FY that have been assigned to them. We expect these to be ready for Board action by June 2005.

#### **Compliance and Pretreatment Inspection:**

The contractor has conducted most of our compliance inspections and all of our pretreatment inspections for the last FY and is doing the same this year. This frees Regional Board staff to focus on permitting and enforcement. Regional Board staff conducts or accompanies the contractor on compliance inspections for critical or problematic facilities and for facilities for which the permit is due for renewal. The contractor provides a draft inspection report, which staff reviews and then transmits to the discharger with appropriate action (e.g. Notice of Violation, etc.). Overall, this process has worked well.

#### **Enforcement:**

The enforcement workload is variable and unpredictable, but with the Mandatory Minimum Penalty (MMP) legislation, there is constant backlog of violations that must be addressed. All three offices are making concerted efforts to catch up and stay current with Self-monitoring Report review and this, of course, results in more MMP violations. The program has made a concerted effort over the last few months to address the MMP backlog and a number of the more significant facilities have been addressed. Our approach has been to address the facilities with the largest number of violations first, so our total number of violations address has decreased faster than the number of facilities with violations. And, because we are catching up with monitoring report review, our number of violations is increasing.

Thus far this FY, MMPs have been processed for 15 facilities. Of this group 8 facilities paid the assessed amount to the CAA account totaling \$261,000, which addressed 107 violations. An additional facility has agreed to pay \$50,000 to the CAA account and \$64,000 for a SEP. The remaining 6 facilities are in various stages of the process and one has requested a SEP. It is uncertain at this time if these will pay the penalty to the CAA account, pursue SEPs or compliance projects or some combination of these. The penalties for these 5 facilities total \$450,000 and address 168 violations.

#### **Petitions and Litigation:**

Petitions and litigation represent an ongoing, unpredictable, but high priority workload. Given the contentious nature of many permit actions, we are seeing a number of petitions filed and in some cases companion litigation or litigation after the State Board decision on the permit. In some cases, petitions have been placed in abeyance pending action on other petitions or litigation. At this point in time, we have several active petitions and litigation involving facilities covered by the Sacramento Office. (DCC)